

## **REMARKS**

### **I. The Applicant's Invention**

The Applicant's invention relates to a method and device for monitoring the cardiac condition of a patient wherein a non-invasive data acquisition device can be employed to acquire a data stream from the patient at a first location. The cardiovascular condition information acquired by the device is then transmitted to a remote processor that is capable of both storing the data stream, and processing the data stream to derive a host of parameters from the data. The data now contained on the remote processor can then be transmitted to a healthcare provider at a site remote from the data acquisition device for permitting the healthcare provider to use the cardiovascular condition information to monitor the cardiovascular of the patient.

Additionally, the device and method include mechanisms for helping to maintain the privacy of the information about the particular patient's cardiovascular condition. To this end, a patient identifier is generated that is as unique to a particular patient, along with the healthcare provider identifier that is unique to a particular healthcare provider. An association between the particular patient identifier and at least one particular healthcare provider is established, for restricting access to the cardiovascular information about a particular patient to those possessing an associated healthcare provider identifier.

Nowhere is this disclosed or suggested in the art of record.

### **II. Priority**

In the Official Action, the Examiner stated that the Applicant had not complied with the requirements for claiming priority, due to a failure to include a specific reference to a

prior application in the first sentence of the Specification. With this Response, the Applicant has amended the Specification to include such a reference.

### III. The Specification

The Examiner objected to the Specification because it contained the embedded hyperlink and/or other forms of browser executable codes.

With this Response, the Applicant has deleted the embedded hyperlink and/or other forms of browser executable codes.

### IV. Claim Objections

The Examiner next objected to Claim 14 because of his belief that the term “code in line 2” should be replaced with “unique to a particular patient” to properly refer to its antecedent. With this Response, the Applicant has amended Claim 14 to adopt the Examiner’s suggestion.

### V. Claim Rejections Under Section 112

The Examiner then objected to Claims 2-5 of the application, as being indefinite under Section 112. With this Response, the Applicant has amended each of Claims 2-5 to provide an appropriate antecedent basis where required, and to clarify the transmitting steps to which the recitation relating to “the step of transmitting the cardiovascular condition information” refers.

With this Amendment, the Applicant believes that it has overcome the Examiner’s rejections under Section 112.

#### VI. Rejection Under Section 101

The Examiner next objected under Section 101 because he believed that the phrase “computer program” was not statutory subject matter. With this Response, the Applicant has amended Claims 20-24 to overcome this rejection, by adopting the Examiner’s suggestion, of using the term “computer readable medium”. With this Amendment, the Applicant believes that the Examiner’s rejection under Section 101 has been rendered moot.

#### VII. Statement Relating to Changes Made to Achieve Patentability

The above changes that have been to the claims, are believed by the Applicant not to be made for reasons that relate directly to the patentability of the invention, insofar as it is believed that none of the changes set forth above are either required or necessary to distinguish the Applicant’s invention from the art of record. Rather, the changes made above are changes that relate purely to matters of linguistic form that have little or no relation to the ability of the claims to distinguish the Applicant’s invention from the art of record.

#### VIII. Rejections Under Section 103

The Examiner rejected the claims under Section 103 citing a combination of Chio, U.S. Patent No. 4,880,013, Chio, U.S. Patent No. 5,836,884 and Brown, U.S. Patent No. 5,899,855. For the reasons set forth below, the Applicant believes that Brown and the earlier Chio patents neither disclose nor suggest the Applicant’s claimed invention.

Brown ‘855 patent relates to a device, the primary purpose of which is to employ a video game, such as a GameBoy that includes a program cartridge that enables the GameBoy to be used with a glucose monitor. A microprocessor base unit processes data supplied by the glucose monitor to display information on the display unit. The system also provides for the

transmission of signals to a remote clearing house or healthcare facility via telephone lines or other transmission media. The clearing house includes signal processing capability for transmitting the transmission report to a remotely located healthcare professional via facsimile transmission. Although Brown deals primarily with certain glucose monitor-type devices, he also does mention that the device can be used with blood pressure measurements.

Chio, U.S. Patent No. 4,880,013, and 5,836,884 (and its related patents) discuss monitoring a wide variety and range of hemodynamic parameters non-invasively.

Although the Chio and Brown references are pertinent to the Applicant's invention, neither of the references, when taken singly or when combined, disclose or suggest the Applicant's claimed invention.

In this Amendment, the Applicant has amended the claims to more clearly recite those features that patentably distinguish the Applicant's invention from the art of record.

For example, Claim 1 has now been amended to include a recitation that the method of the Applicant's invention includes the step of establishing a patient identifier unique to a particular patient, and establishing a healthcare provider identifier unique to a particular healthcare provider, and establishing an association between a particular patient identifier and at least one particular healthcare provider identifier. These identifiers, and their association are established for restricting access to cardiovascular information about a particular patient to those possessing an associated healthcare provider identifier.

This provision of identifiers helps to protect the identity of a patient, to help to reduce the likelihood of some unauthorized person will gain access to a patient's private healthcare data information. Neither the Chio prior art patents nor the Brown reference either discloses or suggests providing such identifiers, or, for that matter, appear to contain any type of security device or method for helping to restrict access to patient information. In this

regard, it is noteworthy that Brown suggests that his device can transmit information to a healthcare provider via a facsimile machine, that, as will be appreciated, is a less than ideally secure mode of transporting information, as the facsimile is often delivered to an office wherein the fax machine, and its contents, are in plain sight.

The Examiner's attention is also directed to the Amendments that the Applicant's have made to Claim 12, which further details the information access restriction features of the Applicant's invention.

The Examiner's attention is now directed to Claim 20. Claim 20 is a "device" claim, that, as alluded to above, has been amended to now recite a "computer readable medium". Claim 20 has been amended similarly to Claim 1 to recite those security features which, as discussed above, are neither disclosed nor suggested by either the Chio prior art patents, or the Brown reference.

The Examiner's attention is next directed to Claim 15. Claim 15 recites, *inter alia*, that the method of the present invention includes a remote process to derive at least one cardiovascular parameter from each of a series of measurements, and correlating the derived cardiovascular parameters to create a trend report capable of being displayed at the healthcare provider.

This capability does not appear to exist in either of the Chio or Brown references. As discussed above, Brown's invention concentrates primarily on glucose monitoring devices, and only briefly discusses the subject of cardiovascular parameters. Nothing in Brown appears to discuss the use of a plurality of discreet cardiovascular parameter measurements, that are then correlated by a processor, to find trend data. Additionally, it is not believed that the Chio patent discusses such creations of trend data that are created by a remote processor, that then has the capability of transmitting the trend data to a remote

healthcare provider's facility. As such, it is not believed that Brown and Chio prior art patents could be combined to either disclose or suggest the Applicant's claimed invention.

The Finklestein reference and Karz UK patent application were cited as background references. Neither of these references either discloses or suggests the use of patient and healthcare provider identifiers to enhance security of the patient data information, as recited in the Applicant's claims or the creation of data recited in Claim 15. As such, these two references, either alone, or when added to any of the other prior art references, cannot be said to either disclose or suggest the Applicant's invention.

For the reasons set forth above, the Applicant believes that the claims, as amended, patentably distinguish the Applicant's invention from the art of record. Additionally, the Applicant believes that the amendments made to various parts of the application to overcome those technical objections lodged by the Examiner render the Examiner's technical objections moot, thereby also serving to place the present application in condition for allowance. Allowance of all claims is respectfully requested by the Examiner, along with the issuance of the Notice of Allowance in due course.

If necessary, Applicant requests that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicant requests that any required fees needed beyond those submitted with this Response be charged to the account of E. Victor Indiano, Deposit Account Number 50-1590.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Victor Indiano', is written over a horizontal line.

E. Victor Indiano

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